

Assembly Bill No. 356

Passed the Assembly September 10, 2009

Chief Clerk of the Assembly

Passed the Senate September 2, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 107110, 114850, and 114980 of, and to add Section 114872 to, the Health and Safety Code, relating to radiologic technology.

LEGISLATIVE COUNSEL'S DIGEST

AB 356, Fletcher. Radiologic technology: fluoroscopy.

Existing law sets forth the duties of various agencies relating to the protection of the public health and safety from the harmful effects of radiation, including, among others, the duties of the State Department of Public Health regarding the licensing and regulation of radiologic technology.

Existing law prohibits the administration or use of diagnostic, mammographic, or therapeutic X-ray on human beings in this state by a licentiate of the healing arts unless that person is certified and acting within the scope of that certification. Existing law requires the department to provide for the certification of licentiates of the healing arts to supervise the operation of X-ray machines or to operate X-ray machines, or both, to prescribe minimum standards of training and experience for these licentiates of the healing arts, and to prescribe procedures for examining applicants for certification. Under existing law, licentiate of the healing arts is defined to include any person licensed under the Medical Practice Act, the Osteopathic Act, or a specified initiative act that created the State Board of Chiropractic Examiners, as provided.

Existing law, the Physician Assistant Practice Act, separately establishes the Physician Assistant Committee of the Medical Board of California, and provides for the licensure of physician assistants meeting specified criteria and for the regulation of their practice. Under that act, a physician assistant is authorized to perform certain medical services under the supervision of a physician and surgeon, subject to certain exceptions.

This bill would revise the definition of licentiate of the healing arts, for purposes of a fluoroscopy permit, to also include a physician assistant who is licensed pursuant to the Physician Assistant Practice Act and who practices under the supervision of a qualified physician and surgeon, as provided.

This bill would require the department to issue a licentiate fluoroscopy permit to a qualified licentiate of the healing arts, as defined, and would allow the holder of a licentiate fluoroscopy permit to administer and use diagnostic, mammographic, or therapeutic X-ray on human beings, within the scope of fluoroscopy permit certification. The bill would require a physician assistant who is issued a licentiate fluoroscopy permit to meet specified continuing education requirements. The bill would also require the supervising physician and surgeon to have, or be exempt from having, a licentiate fluoroscopy permit to perform the functions that he or she is supervising, as provided.

This bill would also allow a physician and surgeon to delegate to a licensed physician assistant specified procedures using fluoroscopy. The bill would specify training requirements that must be met in order for a physician assistant to be delegated this task.

Existing law establishes the Radiation Control Fund for the collection of specified moneys, including fees for use, upon appropriation of the Legislature, to cover the costs of enforcing specified provisions of law relating to radiologic technology.

This bill would allow the department to charge applicants for a licentiate fluoroscopy permit a fee in an amount sufficient to cover the costs of the licensing program, to be deposited in the Radiation Control Fund and used, upon appropriation of the Legislature, to fund implementation of the permit program.

The people of the State of California do enact as follows:

SECTION 1. Section 107110 of the Health and Safety Code is amended to read:

107110. It shall be unlawful for any licentiate of the healing arts to administer or use diagnostic, mammographic, or therapeutic X-ray on human beings in this state after January 1, 1972, unless that person is certified pursuant to subdivision (e) of Section 114870, Section 114872, or Section 114885, and is acting within the scope of that certification.

SEC. 2. Section 114850 of the Health and Safety Code is amended to read:

114850. As used in this chapter:

(a) "Department" means the State Department of Public Health.

(b) “Committee” means the Radiologic Technology Certification Committee.

(c) “Radiologic technology” means the application of X-rays on human beings for diagnostic or therapeutic purposes.

(d) “Radiologic technologist” means any person, other than a licentiate of the healing arts, making application of X-rays to human beings for diagnostic or therapeutic purposes pursuant to subdivision (b) of Section 114870.

(e) “Limited permit” means a permit issued pursuant to subdivision (c) of Section 114870 to persons to conduct radiologic technology limited to the performance of certain procedures or the application of X-rays to specific areas of the human body, except for a mammogram.

(f) “Approved school for radiologic technologists” means a school that the department has determined provides a course of instruction in radiologic technology that is adequate to meet the purposes of this chapter.

(g) “Supervision” means responsibility for, and control of, quality, radiation safety, and technical aspects of all X-ray examinations and procedures.

(h) (1) “Licentiate of the healing arts” means a person licensed under the provisions of the Medical Practice Act, the provisions of the initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith,” approved by electors November 7, 1922, as amended, or the Osteopathic Act.”

(2) For purposes of Section 114872, a licentiate of the healing arts means a person licensed under the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code) who practices under the supervision of a qualified physician and surgeon pursuant to the act and pursuant to Division 13.8 of Title 16 of the California Code of Regulations.

(i) “Certified supervisor or operator” means a licentiate of the healing arts who has been certified under subdivision (e) of Section 114870 or 107111 to supervise the operation of X-ray machines or to operate X-ray machines, or both.

(j) “Student of radiologic technology” means a person who has started and is in good standing in a course of instruction that, if completed, would permit the person to be certified a radiologic technologist or granted a limited permit upon satisfactory completion of any examination required by the department. “Student of radiologic technology” does not include any person who is a student in a school of medicine, chiropractic, podiatry, dentistry, dental radiography, or dental hygiene.

(k) “Mammogram” means an X-ray image of the human breast.

(l) “Mammography” means the procedure for creating a mammogram.

SEC. 3. Section 114872 is added to the Health and Safety Code, to read:

114872. (a) The department shall issue a licentiate fluoroscopy permit to a qualified licentiate of the healing arts, as defined in paragraph (2) of subdivision (h) of Section 114850. Notwithstanding any other provision of law, the department shall accept applications for a fluoroscopy permit from a licensed physician assistant who meets the requirements of this section.

(b) A physician and surgeon may delegate to a licensed physician assistant procedures using fluoroscopy. In order to supervise a physician assistant in performing the functions authorized by the Radiologic Technology Act (Section 27), a physician and surgeon shall either hold, or be exempt from holding, a licentiate fluoroscopy permit required to perform the functions being supervised.

(c) A physician assistant to whom a physician and surgeon has delegated the use of fluoroscopy shall demonstrate successful completion of 40 hours of total coursework, including fluoroscopy radiation safety and protection, recognized by the department. Documentation of completed coursework shall be kept on file at the practice site and available to the department upon request.

(d) Nothing in this section shall be construed to remove the need for a physician assistant to pass a department-approved examination in fluoroscopy radiation safety and protection pursuant to Article 1 (commencing with Section 30460) of Group 5 of Subchapter 4.5 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(e) A licensed physician assistant who is issued a fluoroscopy permit pursuant to the requirements of this section shall, in the

two years preceding the expiration date of the permit, earn 10 approved continuing education credits. The department shall accept continuing education credits approved by the Physician Assistant Committee.

(f) Nothing in this section shall be construed to authorize a physician assistant to perform any other procedures utilizing ionizing radiation except those authorized by holding a licentiate fluoroscopy permit.

(g) Nothing in this section shall be construed to remove the need for a physician assistant to be subject to the permit requirements approved by the department pursuant to Subchapter 4.5 (commencing with Section 30400) of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(h) The department may charge applicants under this section a fee in an amount sufficient, but not greater than the amount required, to cover the department's costs of implementing this section. The fees collected pursuant to this subdivision shall be deposited into the Radiation Control Fund established pursuant to Section 114980.

SEC. 4. Section 114980 of the Health and Safety Code is amended to read:

114980. The Radiation Control Fund is hereby created as a special fund in the State Treasury. All moneys, including fees, penalties, interest earned, and fines, collected under Sections 107100, 107160, 114872, 115045, 115065, and 115080, Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and the regulations adopted pursuant to those sections, shall be deposited in the Radiation Control Fund to cover the costs related to the enforcement of this chapter, including, but not limited to, implementation of Section 114872, Section 115000, Article 6 (commencing with Section 107150) of Chapter 4 of Part 1, and the Radiologic Technology Act (Section 27), and Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and shall be available for expenditure by the department only upon appropriation by the Legislature. In addition to any moneys collected by, or on behalf of, the department for deposit in the Radiation Control Fund, all interest earned by the Radiation Control Fund shall be deposited in the Radiation Control Fund.

Approved _____, 2009

Governor